

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**IN RE:  
HOLOCAUST VICTIM ASSETS  
LITIGATION**

**This document Relates To: All Cases**

**Case No. CV 96-4849 (ERK) (MDG)  
(Consolidated with CV-96-5161 and  
CV-97-461)**

**REFERRAL TO SPECIAL MASTERS  
FOR CLAIMS RESOLUTION  
PROCESS FOR DEPOSITED ASSETS**

KORMAN, C.J.

WHEREAS, Mr. Paul A. Volcker served as Chairman of the Independent Committee of Eminent Persons ("ICEP"), which was established in 1996 and conducted a three-year investigation of Swiss banks to identify accounts from the World War II era that could possibly belong to victims of Nazi persecution, and he also served as the Chairman of the Board of Trustees of the Independent Claims Resolution Foundation ("ICRF"), which was established in 1997 to create and oversee an objective, impartial and streamlined process for resolving claims to dormant accounts from the 1933 to 1945 period; and

WHEREAS, Mr. Michael Bradfield has assisted Paul Volcker in managing ICEP's investigation and the claims resolution process conducted by the Claims Resolution Tribunal; and

WHEREAS, the ICEP investigation had led to the identification of at least some documentation on approximately 4.0 million accounts in Swiss Banks, and some 46,000 accounts that are probably or possibly related to victims of Nazi persecution, providing the documentary foundation for the adjudication of individual claims to accounts in Swiss banks of victims of Nazi persecution; and

WHEREAS, the parties to this litigation entered into a Settlement Agreement ("Settlement Agreement") on January 26, 1999, which was amended by (i) Amendment No. 1 to the Settlement

Agreement and (ii) Amendment No. 2 to the Settlement Agreement and the accompanying memorandum to file; and

WHEREAS, the Settlement Agreement, as amended, provided that the Claims Resolution Tribunal shall carry out a Claims Resolution Process to perform functions relating to the distribution of the Settlement Fund, and that the Claims Resolution Tribunal shall be funded by the Settlement Fund; and

WHEREAS, the defendant banks, and other Swiss banks that were part of the ICEP investigation, have committed to good faith full cooperation with the implementation of the settlement; and

WHEREAS, the Settlement Agreement, as amended, was granted final approval by this Court in a Memorandum and Order of July 26, 2000, as corrected on August 2, 2000 (the "Memorandum and Order"), and a Final Order and Judgment was entered on August 9, 2000 by this Court; and

WHEREAS, the Memorandum and Order provided that the Claims Resolution Tribunal shall be the instrumentality for the administration of the Claims Resolution Process for claims to Deposited Assets (as defined in the Settlement Agreement) as contemplated by the Settlement Agreement, and the purpose of the Claims Resolution Tribunal shall be to provide a fair and efficient forum for adjudicating individual claims by victims of Nazi persecution or their heirs to Deposited Assets Accounts in Swiss banks; and

WHEREAS, the Claims Resolution Tribunal, operating under the authority of the ICRF, has the experience of having adjudicated some 9,000 claims to dormant accounts in Swiss banks of both non-victims and victims of Nazi persecution over the last three years; and

WHEREAS, a Special Master, Mr. Judah Gribetz, was appointed to develop a proposed Plan of Allocation and Distribution of the Settlement Fund (the "Plan"), and the Special Master submitted a Plan for approval by the Court on September 11, 2000; and

WHEREAS, the Plan recognizes that the Claims Resolution Tribunal is an already existing adjudicative body comprised of arbitrators, attorneys, and other staff, who now have several years of experience, and are serving under outstanding leadership, and states that the Claims Resolution Tribunal can "best assure that the tens of thousands of claims expected to be filed against Swiss bank accounts are resolved speedily, equitably, and accurately"; and

WHEREAS, the Plan recognized the need for rules for the Claims Resolution Process that comport with the special needs of the members of the Deposited Assets class and with the special circumstances surrounding some of the accounts identified as probably or possibly accounts of victims of Nazi persecution as a result of the ICEP investigation; and

WHEREAS, the Plan submitted by Special Master Judah Gribetz, which provided for use of the Claims Resolution Tribunal to resolve deposited assets class claims, was approved by the Court on November 22, 2000; and

WHEREAS, the Settlement Agreement, as amended, the Memorandum and Order, and the Proposed Plan unanimously support the use of the Claims Resolution Tribunal to resolve Deposited Assets Class claims, under Court supervision; and

WHEREAS, the implementation of the Claims Resolution Process by the Claims Resolution Tribunal will be a complicated undertaking; and

WHEREAS, the appointment of Special Masters under Rule 53 of the Federal Rules of Civil Procedure to implement such a Claims Resolution Process is warranted to direct and administer this complicated undertaking, and to commence promptly, under the direction and supervision of the Special Masters, the building of the Claim Resolution Process infrastructure and the commencement of the planning for the publication of accounts, and the acceptance and adjudication of claims; and

WHEREAS, Mr. Volcker and Mr. Bradfield are exceptionally well-qualified to perform the services required of the Special Masters in connection with the implementation of the Claims Resolution Process for Deposited Assets; and

NOW, THEREFORE, the Court hereby ORDERS:

1. Appointment and Reporting. Paul A. Volcker and Michael Bradfield are appointed under Rule 53 of the Federal Rules of Civil Procedure as Special Masters to establish, organize, and supervise the Claims Resolution Process, using the Claims Resolution Tribunal provided for in the Plan of Allocation and Distribution as approved by the Court, by which the claims of the Deposited Asset Class Members are to be resolved in a fair and equitable manner. The Special Masters, subject to Court approval, shall adopt rules to govern the Claims Resolution Process and shall carry out the tasks necessary to establish and implement the Claims Resolution Process. The Special Masters shall inform the Court of all awards certified by the Claims Resolution Tribunal and report quarterly to the Court on the work of the Tribunal.

2. Powers. The Special Masters shall have the rights, powers, and duties provided in Rule 53 and may adopt such procedures to carry out the Claims Resolution Process as are not inconsistent with that Rule or with this or other Orders of the Court. The Special Masters shall have broad authority to conduct hearings or other appropriate proceedings and to carry out the purpose of their appointment as Special Masters, and for this purpose to interview or otherwise communicate with all persons as necessary to establish and implement the Claims Resolution Process. The Special Masters shall have the right to travel domestically or abroad to carry out the tasks assigned to them, including the conduct of hearings or interviews, and shall have the right to discuss any aspect of the Claims Resolution Process.

3. Expenses of the Claims Resolution Process. The Special Masters shall submit to the Court a budget of annual expenditures (or supplementary budgets to annual budgets) for implementation of the

Claims Resolution Process. After the annual, or as needed supplementary, budgets are reviewed and approved by the Court, all of the funds needed for these expenditures for the Claims Resolution Process shall be paid into the custody of the Special Masters for disbursement for implementation of the Claims Resolution Process. The Special Masters shall report to the Court quarterly on actual expenditures for the preceding quarter and shall arrange for an independent audit of all expenditures to carry out the Claims Resolution Process.

4. Fees and Expenses of the Special Masters. The Special Masters may, at their request, be compensated for their services on such terms as may be established by the Court, but not in excess of a rate equal to 85% of their normal billing rate. In addition, the Special Masters shall be reimbursed for all necessary and reasonable expenses in connection with the fulfillment of their duties pursuant to this Order. Within the limits for expenditures established by the budgets approved by the Court, the Special Masters may employ, in addition to the personnel of the Claims Resolution Tribunal, other persons including lawyers, auditors, consultants, experts or claims administrators as the Special Masters deem advisable (other than persons serving as counsel for or otherwise representing the settlement classes) to assist them. Such persons shall be under the supervision and control of the Special Masters and shall serve at their pleasure. Provision for any fees and expenses of the Special Masters shall be included in the annual or supplementary (if needed) budgets submitted to, and subject to the approval of, the Court under section 4 hereof.

5. Account for Payment of Awards. The Special Masters shall establish an Awards Payment Account from which awards certified to the Court by the Claims Resolution Tribunal shall be paid after approval of such awards by the Court. Within the scope of the amount allocated to the Plaintiff classes by the Plan of Allocation and Distribution as approved by the Court, from time to time the Court will direct

that funds from the Escrow Fund or the Settlement Fund (both as defined in the Settlement Agreement) shall be transferred to the Award Payments Account in the amounts necessary to cover payments of awards. Upon Court approval of awards certified by the Claims Resolution Tribunal, the full amount of awards shall be paid, except in the case of accounts of unknown value. For such unknown value accounts, the initial payment shall be 35 percent of the certified award, and after all claims are processed, subject to Court approval, claimants to such unknown value accounts may receive a second payment of up to 65 percent of the certified award.

6. Agreement and Certification. The Special Masters shall file sworn statements with the Clerk of the Court agreeing to serve as Special Masters in accordance with this reference and affirming that neither the Special Masters nor any of the members of their firms have any conflict of interest concerning the matter.

**SO ORDERED.**

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Edward R. Korman  
United States District Judge

Dated: Brooklyn, New York  
December 8, 2000